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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,594	01/28/2002	Michael P. Ronan		4093

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

8

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/058,594

Applicant(s)

RONAN ET AL.

Examiner

Tri M. Mai

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 23-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

Art Unit: 3727

### **DETAILED ACTION**

Claims 23-35 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to non-elected invention as set forth in the previous Office Action.

#### ***Drawings***

1. The proposed drawings dated 01/15/04 has been disapproved for showing new matter.

Inter alias, the original disclosure does not support the following:

The extent of portion 42, and the width of portion 42

The thickness of portions 55, 56, 11, 15, and the dimension of portions 8 and 9 are not consistent with the disclosure.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the various coating material must be shown, the adhesive in claim 1, and the uncoated stripe going through the knock-outs, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Furthermore, a cross section through each of the knock-outs and the punch scores must be shown to show what comprise these elements.

#### ***Claim Rejections - 35 USC § 112***

3. Claim 35 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The original disclosure does not teach the adhesive aligns with the punch scores and the knock-

Art Unit: 3727

outs and extends across the adhesive panel along the punch score and the knock-outs. This is a new matter rejection.

4. Claim 2, 3, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what the uncoated stripe in claim 2. Uncoated with what?

It seems that the uncoated stripe connects all the knock-out regions would result in one uncoated region thus forming one knockout region only.

***Claim Rejections - 35 USC § 102***

5. Claims 1-4, 6, 7, 12, and 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cassidy (5029714), or in the alternative, over Cassidy in view of Wein (5044503). Cassidy teaches a blank in a folded configuration having an interior surface containing printed material, and the folded blank defining a contents access opening and including a contents access flaps 30 and 22 closing the access opening, and these flaps are movable as claimed. Note that the term movable is broad including that the flaps 30 and 22 can be torn for accessing the contents, a manufacturer's joint having a first panel 28 with a plurality of punch scores at portion 52, a second panel 34 having a surface facing the surface of the first panel and it is at least partially coated with abseal at areas 46 and plurality of uncoated knock-outs at portion 50, and adhesive (col. 1, line 51).

In the alternative, to the degree applicant argues that areas 46 and 48 are not coated areas as claimed. Wein teaches that it is known in the art to coat abseal ink between adhesive areas (col. 2, lines 5-6). It would have been obvious to one of ordinary skill in the art to provide abseal

ink in the areas 46 and 48 between adhesive areas in Cassidy as taught by Wein to provide the an alternative abseal material.

Regarding claims 2, 4, and 14, since the “uncoated stripe” refers to the region that has no abseal material, both panels 34 and 28 resemble a stripe as claimed, encompassing the knockouts and punch scores.

Regarding claim 6, panel 28 is the adhesive panel, and panel 34 is the right panel as claimed.

Regarding claim 7, Cassidy teaches a front panel 16, a left panel 24 hingedly attached to the front panel 16, and a back panel 14 hingedly attached to the left panel and the adhesive panel as claimed.

***Claim Rejections - 35 USC § 103***

6. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy. It would have been obvious to one of ordinary skill in the art to provide the adhesive as claimed to provide the desired amount of adhesive in the panel.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy in view of Mueller (4289240). It would have been obvious to one of ordinary skill in the art to provide a water based adhesive in Cassidy as taught by Mueller to provide the desired adhesive for using with the container as claimed.

8. Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy in view of Katzenmeyer (3563447). It would have been obvious to one of ordinary skill in the art to provide a varnish coating in the Cassidy rejection as taught by Katzenmeyer. Furthermore, it

would have been obvious to one of ordinary skill in the art to use UV varnish to provide the desired material for coating the container

9. Claims 8-10, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy rejection, as set forth in paragraph 5, and further in view of Van Dyke et al. (3096918). Van Dyke teaches that it is known in the art to provide a container with a sealing system on a container with an adhesive panel 27 and a right panel 16. It would have been obvious to one of ordinary skill in the art to use the sealing system of Cassidy in the container of Van Dyke to provide the desired sealing for the container.

Regarding claim 8, it would have been obvious to one of ordinary skill in the art to move the one of the closure flaps 22 so that one of them is hingedly attached to a back panel 14.

Regarding claim 10, note that there are coatings 13 on both sides of the container as shown in Fig. 3.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Cassidy rejection, as set forth in paragraph 8, and further in view of Katzenmeyer. It would have been obvious to one of ordinary skill in the art to provide a varnish coating in the Cassidy rejection as taught by Katzenmeyer. Furthermore, it would have been obvious to one of ordinary skill in the art to use UV varnish to provide the desired material for coating the container.

### ***Response to Arguments***

11. Applicant's arguments filed 01/15/04 have been fully considered but they are not persuasive. With respect to the Cassidy rejection, applicant asserts that the Cassidy reference does not teach the flap as claimed. As set forth above, flaps 30 and 22 closes the access opening,

Art Unit: 3727

and these flaps are movable as claimed, and the term movable is broad including that the flaps 30 and 22 can be torn for accessing the contents.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Cassidy in view of Van Dyke is ascertainable for one of ordinary skill in the art since provide peelable joint in one container can be easily made for another container.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

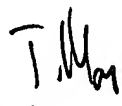
Art Unit: 3727

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai   
Primary Examiner  
Art Unit 3727